SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

3000 K STREET, NW, SUITE 300 WASHINGTON, DC 20007-5116 TELEPHONE (202) 424-7500 FACSIMILE (202) 424-7645 WWW.SWIDLAW.COM

KRISTINE DEBRY
DIRECT DIAL (202) 424-7660
KDEBRY@SWIDLAW.COM

New York Office 919 Third Avenue New York, NY 10022-9998 (212) 758-9500 fax (212) 758-9526

December 16, 1998

VIA HAND DELIVERY

Magalie Roman Salas, Esq. Secretary Federal Communication Commission 445 12th Street, N.W., Room TW-B204 Washington, D.C. 20554 RECEIVED

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DEC 16 1998

Re:

Truth-in-Billing and Billing Format

CC Docket No. 98-170

Dear Ms. Salas:

Enclosed for filing in the above captioned matter, please find an original and four (4) copies of the Reply Comments of the Coalition to Ensure Responsible Billing.

Please acknowledge receipt by date-stamping the enclosed extra copy of this filing and returning it to me in the envelope provided. If you have any questions regarding this filing please contact me at (202) 424-7660.

Sincerely,

Kristine DeBry

Enclosures

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Before the FEDERAL COMMUNICATIONS COMMISSION DEC 16 1938 FEDERAL CONSTRUCTATIONS CONSTRUCTOR Washington, D.C. 20554

In the Matter of)	
Truth-in-Billing)	CC Docket No. 98-170
and)	

REPLY COMMENTS OF THE COALITION TO ENSURE RESPONSIBLE BILLING

)

The Coalition to Ensure Responsible Billing ("Coalition") respectfully submits the following reply comments in response to the Notice of Proposed Rulemaking in the abovecaptioned proceeding. The Coalition restricts its reply comments almost exclusively to the need, as demonstrated by a range of commenters, for the Commission to apply a nondiscrimination requirement to the provision of local exchange carrier ("LEC") billing and collection services in order both to protect competition and to foster "truth-in-billing." Although the Coalition focuses its reply comments on this narrow issue, it reiterates its original comments in this proceeding regarding the regulation of the content and organization of telephone bills.²

I. **Introduction and Summary**

Billing Format

In its original comments in this proceeding, the Coalition argued that, to ensure competition in certain segments of the telecommunications services market, the Commission should apply a non-discrimination requirement to LEC billing and collection services offered to

¹ In the Matter of Truth-in-Billing and Billing Format, Notice of Proposed Rulemaking, CC Docket No. 98-170, FCC 98-232, released Sept. 17, 1998 ("NPRM").

² See Comments of the Coalition to Ensure Responsible Billing in FCC CC Docket No. 98-170 (filed Nov. 13, 1998).

providers of telecommunications services.³ The comments of other parties underscore the necessity of this requirement and the urgency for action. Additionally, the comments show that as the Commission increases burdens on LECs, it also provides the motivation for LECs to discriminate in their provision of the bill. Thus, as the Commission considers regulation of the form and content of the bill, it must also consider mitigating the effects of that regulation by requiring LECs that provide billing and collections to do so on a non-discriminatory basis. The Commission has authority to impose such a non-discrimination requirement. While confining the bulk of its reply comments to competitive issues, the Coalition reiterates that it is appropriate for local telephone bills to list only the toll-free customer service number of the billing clearinghouse alongside charges for which it has contracted to respond to consumer inquiries and to grant credits.

II. Comments Demonstrate the Urgent Need for the Commission to Impose a Non-Discrimination Requirement on LEC Billing and Collection Services

In its original comments, the Coalition argued that non-discriminatory access to LEC billing and collection services is critical to the viability of competitive service providers for several reasons: small, competitive providers often lack the economic resources to bill their customers directly; the telephone bill, unlike other billing vehicles (such as the credit card bill), is ubiquitous; and consumers prefer a single bill for all their telecommunications services and thus favor services that are billed on their local bill.⁴ The Coalition thus agrees with the comments of MCI WorldCom which further demonstrate this point as it relates to non-subscribed services such as 1-800-COLLECT or 10-10-321. MCI WorldCom argues that LEC billing and collection is essential where the customer has no ongoing relationship with the service provider because it is not economical for the provider to send a bill for what is often a single phone call in

³ See Comments of the Coalition at 3-6.

See id. at 4.

one month.⁵ MCI WorldCom further argues that the Commission should establish rules to ensure that unaffiliated carriers relying on LEC "bottleneck" billing and collection facilities are protected from discrimination.⁶ The Coalition agrees with MCI WorldCom that these rules are essential because, for many competitive providers, no feasible alternatives exist to LEC billing and collection services.⁷

The threat of unreasonable discrimination is highlighted by the comments of BellSouth. Despite the claims of USTA that LECs must apply the same standards to billing for their own services as they apply to third-party billing, BellSouth appears to interpret the LEC Anti-Cramming Best Practices Guidelines as directed primarily, if not exclusively, at third-party billing. BellSouth suggests in its comments that while it cannot mandate customer service standards for third parties, nonetheless in order to "encourage the maintenance of satisfactory standards by third-party providers, the Anti-Cramming Best Practices Guidelines adopted by BellSouth and other billing LECs suggest the implementation of certain complaint thresholds, which may be applied to identify those providers/services generating an unacceptable level of complaints to LEC business offices." Further, BellSouth explains that LECs can apply thresholds in a number of ways including using "measurements based upon the number of billing adjustments to the third-party provider service or billing inquiries concerning such service received by LEC customer contact centers." The Coalition submits that this statement suggests a belief on the part of BellSouth that the LEC guidelines are designed to police the behavior of

⁵ See Comments of MCI WorldCom at 5 (See also MCI Petition for Rulemaking, Billing and Collection Services Provided by Local Exchange Carriers for Non-Subscribed Interexchange Services, RM-9108, filed May 19, 1997 ("MCI Petition")).

⁶ See Comments of MCI WorldCom at 5.

¹ Id.

^{*}See Hearing on Protecting Consumers Against Cramming and Spamming Before the Subcommittee on Telecommunications, Trade and Consumer Protection of the House Commerce Committee (Sept. 28, 1998), Federal News Service transcript at 29, statement of Larry Sarjeant, USTA Vice President of legal and regulatory affairs.

⁹ Comments of BellSouth at 10. Emphasis added.

¹⁰ Id. at n.15. Emphasis added.

third parties and not their own. Accordingly, the Commission must clarify that these guidelines, and any other requirements, apply equally to all services and products that appear on a consumer's local telephone bill, including those provided by the LEC itself.

The comments of Americatel further demonstrate the potential for LEC discrimination with regard to the provision of billing and collection on the local bill. Americatel states that two Regional Bell Operating Companies ("RBOCs") discriminated against its interexchange service while seeking to promote their own products. According to Americatel, Ameritech and U S West refused to offer a meaningful description of Americatel's dial-around service on their bills at the same time that they had entered into joint marketing agreements pursuant to which they would have provided competing long distance services to their customers. 11 Ameritech and US West refused to allow Americatel to identify its service on the bill as "1010-123 Americatel." Instead, the bill would only read "Americatel." Consumers, however, were familiar with the service from advertisements which clearly identified it as "1010-123 Americatel" and from their use of the dialing pattern 10-10-123. Due to the lack of branding information which would trigger a consumer's memory about the service used, Americatel was the object of inquiries and complaints from consumers who failed to identify the charge on the bill as the 10-10-123 service they had used to make long distance calls. Ameritech and U S West's refusal to permit a clear description on the bill created a substantial disadvantage for a potential competitor. This type of discrimination harms competition and portends behavior that the Coalition fears will become increasingly widespread as LECs offer more services that compete with those for whom they bill.

Ameritech and U S West's desire to control the content of competitive providers' messages on the bill underscores the fact that LECs see the bill as a powerful competitive tool.

[&]quot;See comments of Americatel at 5 (Ameritech and U S West eventually were precluded from offering long distance through an arrangement with Qwest on the grounds that the arrangement constituted the provision of long distance service in violation of the local market-opening provisions of the Telecommunications Act of 1996. See AT&T et al. v. Ameritech Corp. and Qwest Communications Corp. Memorandum and Order, FCC 98-242, File Nos. E-98-41, E-98-42, E-98-43 (rel. Oct. 7, 1998)).

¹² Id. at 3-4.

Indeed, GTE commented that it derives competitive benefits from its billing initiatives.¹³
Further, Ameritech commented that its new wireline residential bill format will be a "positive competitive differentiator" for its services.¹⁴ Given that the LECs have exclusive control over this competitive tool, the Commission should ensure that the LECs do not use it to unfairly disadvantage their competitors.

III. As the Commission Considers Increasing Burdens on the LECs in Their Provision of Billing and Collections, It Must Ensure that These Requirements Do Not Result in Discrimination Against Third-Party Providers Vis-a-Vis a LEC's Own Service

Comments filed in this proceeding demonstrate that increasing regulatory burdens on LEC billing practices also increases the motivation for LECs to discriminate in their provision of billing and collection services, or to cease billing and collections for third parties altogether, while continuing to bill for their own ancillary services and, eventually, their own interexchange service. Thus, as the Commission considers regulating the form and content of the bill, it must also consider mitigating the effects of that regulation. The Commission should require those LECs that provide billing and collection services to third parties to do so on a non-discriminatory basis.

The comments of Project Mutual Telephone Cooperative Association ("PMT") demonstrate that LECs stand ready to discontinue billing for third parties if the Commission imposes excessive burdens on their billing and collection practices. PMT argues that regulation "is likely to result in carriers such as PMT discontinuing billing services for other entities." Similarly, GVNW Inc./Management, on behalf of independent telephone companies, argues that the prospect of increased burdens associated with billing and collections may cause them to

¹³ Comments of GTE at 9.

¹⁴ Comments of Ameritech at 2.

¹⁵ Comments of Project Mutual Telephone Cooperative Association ("PMT") at 2.

"terminate some or all B&C for third parties."¹⁶ GVNW thus requests guidance from the Commission on whether it is permitted to do so.¹⁷

The prospect of LECs ceasing billing and collections for competitive services, but continuing to bill their own comparable service offerings, would raise issues of unreasonable discrimination and would thwart the Commission's goals of promoting a competitive environment for the provision of telecommunications services. This discrimination would also harm consumers by threatening the provision of useful telecommunications services that cannot, as a practical matter, be provided without access to LEC billing and collection services.

New burdens on LECs are likely to heighten the risk that LECs will discriminate against competing providers in such activities as determining acceptable consumer complaint levels for certain services. Further, new burdens are likely to result in increased costs disproportionately being passed through to competitive providers. The Commission should guard against these results by prohibiting unreasonable LEC discrimination against third parties, vis-a-vis their own services, in their provision of billing and collection services. If a LEC unreasonably discontinues billing for a long distance provider, for example, it should not be allowed to bill its own long distance service on the local bill.

IV. The Commission Has the Authority to Impose a Non-Discrimination Requirement

The Coalition demonstrated in its original comments that the Commission may exercise its authority under Title I of the Telecommunications Act of 1934 to prohibit discrimination in LEC billing and collections.¹⁸ MCI similarly argues that the Commission has the authority to impose a limited non-discrimination requirement for the provision of billing and collections to non-subscribed services.¹⁹ MCI argues that the Commission can rightfully revisit aspects of its

¹⁶ Comments of GVNW Inc./Management at 2.

¹⁷ Id.

¹⁸ See Comments of the Coalition at 6-11.

¹⁹ See Comments of MCI WorldCom at 29 (see also MCI Petition at 11-14).

decision in the *Detariffing Order*,²⁰ based on the fact that billing and collections competition anticipated by the Commission has failed to materialize.²¹ The Coalition agrees with MCI that no practical or economical alternatives to LEC billing have developed. Thus, the Commission may reconsider its rationale for entrusting the future of billing and collections entirely to market forces. In doing so, the Commission can exercise its authority to impose a non-discrimination requirement on the provision of LEC billing and collection services.

V. It Is Appropriate to List a Clearinghouse's Toll-Free Number Alongside Charges for Which it is Responsible

The Coalition argued in its original comments that it is entirely appropriate, and even preferable, to list the toll-free customer service number of the billing clearinghouse alongside third-party charges on the local telephone bill.²² Billing clearinghouses perform customer services functions as agents of the service providers, especially where the service provider lacks the staffing and resources to answer customer inquiries. Further, as a party to contracts with the LECs, clearinghouses have an interest in satisfying the consumer in order to conform to the terms of those contracts. Even the Federal Trade Commission ("FTC") in its current rulemaking on telephone billing procedures has recognized that billing clearinghouses perform a valid customer service function and thus are properly identified on telephone bills as the customer service point of contact.²³ The Comments of the National Consumers League and the Texas Public Utilities Counsel in this proceeding also recognize the role billing clearinghouses play in providing customer service functions.²⁴

²⁰ See In the Matter of Detariffing of Billing and Collection Services, 102 F.C.C.2d 1150, para. 37 (1986)("Detariffing Order").

²¹ See Comments of MCI at 23.

²² Comments of the Coalition at 18.

²³ See 63 Fed. Reg. 58524, 58550 (Oct. 30, 1998).

²⁴ Comments of National Consumers League at 9; Comments of the Texas Public Utility Counsel at 2.

The Commission should not require the toll-free numbers of both service providers and billing clearinghouses to appear on the bill. Providing two numbers would confuse consumers and make it unclear which party consumers should contact with a complaint. Billing clearinghouses are the most appropriate party to respond to consumer inquiries and to provide consumer credits for disputed charges. Thus, their toll-free numbers should be listed alongside charges for which they are responsible.

VI. Conclusion

For the above reasons, the Coalition submits that comments filed in this proceeding demonstrate that imposing a non-discrimination requirement on LECs in their provision of billing and collections is warranted, necessary, and within the Commission's authority. Accordingly, the Coalition urges the Commission to prohibit LECs from unreasonably discriminating in the provision of billing and collection services.

Respectfully submitted,

Gary D. Slaiman Kristine DeBry

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

3000 K Street, N.W., Suite 300

Washington, D.C. 20007

(202) 424-7707

Counsel for Coalition to Ensure Responsible Billing

December 16, 1998

CERTIFICATE OF SERVICE

I, Valerie Steen, hereby certify that I have on this 16th day of December, 1998, served copies of the foregoing Reply Comments of the Coalition to Ensure Responsible Billing on the following via hand delivery:

Magalie Roman Salas, Esq. (original + 4) Secretary Federal Communications Commission 445 12th Street, S.W. Room TW-B204 Washington, D.C. 20554

International Transcription Service, Inc. (1 + diskette) 1231 20th Street, N.W. Washington, D.C. 20037

Chairman William E. Kennard Federal Communications Commission 1919 M Street, N.W. Room 814 Washington, D.C. 20554

Commissioner Harold W. Furchtgott-Roth Federal Communications Commission 1919 M Street, N.W. Room 802 Washington, D.C. 20554

Commissioner Susan Ness Federal Communications Commission 1919 M Street, N.W. Room 832 Washington, D.C. 20554

Commissioner Michael K. Powell Federal Communications Commission 1919 M Street, N.W. Room 844 Washington, D.C. 20554 Commissioner Gloria Tristani Federal Communications Commission 1919 M Street, N.W. Room 826 Washington, D.C. 20554

Anita Cheng (1 + diskette)
Federal Communications Commission
Common Carrier Bureau
2025 M Street, N.W.
Room 6334
Washington, D.C. 20554

Darius B. Withers, Esq.
Federal Communications Commission
Common Carrier Bureau
Enforcement Division
2025 M Street, N.W.
Room 6120
Washington, D.C. 20554

Dorothy Atwood
Federal Communications Commission
Common Carrier Bureau
Enforcement Division
2025 M Street, N.W.
Room 6008A
Washington, D.C. 20554

Allen W. Hile
Assistant Director
Marketing Practices Division
Bureau of Consumer Protection
Federal Trade Commission
601 Pennsylvania Avenue, N.W.
Room 230
Washington, D.C. 20580

Eileen Harrington Associate Director Marketing Practices Division Bureau of Consumer Protection Federal Trade Commission 601 Pennsylvania Avenue, N.W. Room 238A Washington, D.C. 20580

Valerie M. Steen